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**IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF TEXAS
ABILENE DIVISION**

IN RE:	§	
	§	CASE NO. 13-10031-rlj13
CORY JUSTIN WRIGHT,	§	
Debtor.	§	Chapter 13
	§	
GREEN PLANET SERVICING, LLC,	§	
Movant,	§	HEARING DATE: March 5, 2014
	§	
v.	§	TIME: 11:00AM
	§	
CORY JUSTIN WRIGHT, Debtor, and	§	
WALTER O'CHESKEY, Trustee,	§	JUDGE ROBERT L. JONES
Respondents.	§	

**GREEN PLANET SERVICING, LLC'S
MOTION FOR RELIEF FROM STAY AGAINST DEBTOR
CORY JUSTIN WRIGHT REGARDING PROPERTY LOCATED AT
3102 VINE STREET, ABILENE, TX 79602
PURSUANT TO 11 U.S.C. § 362(d) AND
WAIVER OF THIRTY DAY REQUIREMENT PURSUANT TO 11 U.S.C. § 362(e)**

NOTICE-RESPONSE REQUIRED

PURSUANT TO LOCAL BANKRUPTCY RULE 4001-1(b), A RESPONSE IS REQUIRED TO THIS MOTION, OR THE ALLEGATIONS IN THE MOTION MAY BE DEEMED ADMITTED, AND AN ORDER GRANTING THE RELIEF SOUGHT MAY BE ENTERED BY DEFAULT.

ANY RESPONSE SHALL BE IN WRITING AND FILED WITH THE CLERK OF THE UNITED STATES BANKRUPTCY COURT AT 306 FEDERAL BUILDING, 1205 TEXAS AVE. LUBBOCK TEXAS 794010-4002 BEFORE CLOSE OF BUSINESS ON FEBRUARY 12, 2014, WHICH IS AT LEAST 14 DAYS FROM THE DATE OF SERVICE HEREOF. A COPY SHALL BE SERVED UPON COUNSEL FOR THE MOVING PARTY AND ANY TRUSTEE OR EXAMINER APPOINTED IN THE CASE. ANY RESPONSE SHALL INCLUDE A DETAILED AND COMPREHENSIVE STATEMENT AS TO HOW THE MOVANT CAN BE "ADEQUATELY PROTECTED" IF THE STAY IS TO BE CONTINUED.

HEARING PARTICIPANTS ARE NOTIFIED THAT ABSENT COMPELLING CIRCUMSTANCE, EVIDENCE PRESENTED AT PRELIMINARY HEARINGS IN THE DALLAS DIVISION ON MOTIONS FOR RELIEF FROM THE AUTOMATIC STAY WILL BE BY AFFIDAVIT ONLY. THE PARTY REQUESTING THE HEARING MUST SERVE EVIDENTIARY AFFIDAVITS AT LEAST 7 DAYS IN ADVANCE OF SUCH HEARING; THE RESPONDING PARTY MUST SERVE EVIDENTIARY AFFIDAVITS AT LEAST 48 HOURS IN ADVANCE OF SUCH HEARING.

1. Movant, Green Planet Servicing, LLC, files its motion for relief from automatic stay against debtor and would respectfully show the Court the following:

A. Jurisdiction

2. This Motion is brought against Debtor, Cory Justin Wright, pursuant to 11 U.S.C. § 362(d) in accordance with FED. R. CIV. P. 4001.

B. Parties

3. Movant is Green Planet Servicing, LLC, a secured creditor; Debtor is Cory Justin Wright (“Debtor”); And Walter O’Cheskey is the Chapter 13 Trustee in this case.

C. Background, Debt, and Collateral Description

4. Debtor filed a petition for relief under Chapter 7 of the Bankruptcy Code on February 21, 2013.

5. In September of 2010, Debtor sought and obtained a loan from Amerigroup Mortgage Corporation, a division of Mortgage Investors Corporation (“Lender”), to refinance his home located at 3102 Vine Street, Abilene, Texas 79602. To secure payment of the loan, Debtor executed and delivered a promissory note¹ (the “Note”) made payable to Lender. To secure payment of the Note, Debtor also executed and delivered a Deed of Trust² encumbering the following described property:

Lot 13, Block 11, I.S. Gathright Subdivision, a Replat of Lot 3 and the South 160 Feet of Lot 2, Block 10, Lots 3 through 13 and the South 75 Feet of Lot 14, Ray

¹ A true and correct copy of the Adjustable Rate Note with “in blank” endorsement attached hereto as Exhibit A.

² A true and correct copy of the Deed of Trust attached hereto as Exhibit B.

Patton Subdivision of Block 11, Lots 3 and 4 and the South 175 Feet to Lot 1, and the South 100 Feet of Lot 2, Block 12, and Lot 4 and the South 100 Feet of Lot 1, Block 13, Edgemont Addition to the City of Abilene, Taylor County, Texas, as Shown by Plat Recorded on Plat Cabinet 2, Slide 194-C, Plat Records, Taylor County, Texas, more commonly known as 3102 Vine Street, Abilene, Texas 79602 (the "Property").

Mortgage Electronic Registration Systems, Inc. was the Beneficiary under the Deed of Trust. Pursuant to the Note and Deed of Trust, Debtor owed Lender and Lender's successors and assigns \$131,876.00 and promised to repay this debt in regular periodic payments until this debt was repaid.

6. Through assignment³ of the loan documents, Movant, Green Planet Servicing, LLC, became the owner and holder of the Note and Deed of Trust.

7. Debtor and Movant entered into a Loan Modification Agreement⁴ on February 13, 2013 (effective February 7, 2013) recapitalizing delinquent amounts due into a new unpaid principal sum of \$135,443.00, reducing the interest rate to an annual fixed rate of 2.750%, and bearing a new principal and interest payment of \$552.93, beginning with the March 1, 2013 monthly installment.

D. Lack of Adequate Protection

8. Debtor has failed to timely pay the monthly mortgage payments due under the Note. The Note is presently due for the September 1, 2013 monthly mortgage payment of \$917.47 and all subsequent monthly mortgage payments through and including the January 1, 2014 monthly mortgage payment, a total of five (5) monthly mortgage payments due as of the filing of this Motion.⁵

³ True and correct copy of the Assignment is attached hereto as Exhibit C.

⁴ True and correct copy of the Loan Modification Agreement is attached hereto as Exhibit D.

⁵ See the *Affidavit in Support of Motion for Relief from the Automatic Stay* testifying to the post-petition arrearage and total debt due under the Note and the *Appendix* attached thereto.

9. The unpaid principal balance remaining due under the Note is \$134,224.73, plus accrued interest, late charges, attorneys' fees and expenses, and costs as provided by the Note and Deed of Trust.⁶

10. By failing to timely pay the monthly mortgage payments, Debtor has failed to provide adequate protection to Movant which constitutes cause to terminate the automatic stay under 11 U.S.C. § 362(a).⁷ Further, Debtor has no equity in the Property.^{8 9}

11. Movant requests the Court to terminate the automatic stay so Movant may exercise its rights under the loan documents, including foreclosure in accordance with the Note and Deed of Trust, for Debtor's failure to timely pay the monthly mortgage payments under the Note.

12. In accordance with the terms of the Note and Deed of Trust, Movant would allege that it is entitled to reasonable attorneys' fees and expenses, including, but not limited to, fees and, if any, for the preparation and filing of a proof of claim, and fees and costs for the preparation and filing of this Motion.

13. Movant requests the provision of FED. R. CIV. P. 4001(a)(3) be waived and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay.

E. Prayer

14. For these reasons, Movant, Green Planet Servicing, LLC, asks the Court to sign an order granting the following relief from the automatic stay:

⁶ *Id.*

⁷ See 11 U.S.C. § 362(d)(1).

⁸ See 11 U.S.C. § 362(d)(2)(A).

⁹ A printout from the website maintained by the Taylor County Appraisal District is attached hereto as Exhibit E. It is appropriate for the Court to take judicial notice of the Taylor County Tax Appraisal because it is a public record and the information it provides is readily obtainable and the source -- the Taylor County Tax Appraisal -- cannot be reasonably questioned. See *Funk v. Stryker*, 631 F.3d 777, 783 (5th Cir. 2011).

- a. After notice and hearing, terminate the automatic stay;
- b. Allow Movant to exercise its rights under the loan documents, including, but not limited to, foreclosure in accordance with the Note and Deed of Trust;
- c. Alternatively, Movant be made whole by having all payments brought current;
- d. Waive the provisions of FED. R. CIV. P. 4001(a)(3) and Movant be permitted to immediately enforce and implement any order granting relief from the automatic stay;
- e. Movant be awarded its reasonable post petition attorneys' fees and expenses and costs for this Motion; and
- f. Movant be granted such other relief is just.

Respectfully Submitted,

PRUYN LAW FIRM, PLLC

By: /s/ Jennine Hovell-Cox
Jennine Hovell-Cox, *Of Counsel*
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COUNSEL FOR GREEN PLANET SERVICING, LLC

CERTIFICATE OF CONFERENCE

I hereby certify that on January 27, 2014 at 2:00 p.m., Thomas D. Pruyn spoke to the Debtor's attorney's bankruptcy manager regarding the filing and the basis of this Motion. According to the Debtor's Attorney bankruptcy manager, Debtor is opposed to this Motion.

/s/ Jennine Hovell-Cox
Jennine Hovell-Cox

CERTIFICATE OF SERVICE

I certify that on January 29, 2014, a true and correct copy of the *Green Planet Servicing, LLC's Motion for Relief from Stay Against Debtor Cory Justin Wright Regarding Property Located at 3102 Vine Street, Abilene, Texas 79602 Pursuant to 11 U.S.C. § 362(d) and Waiver of Thirty Day Requirement Pursuant to 11 U.S.C. § 362(e)* was served via electronic delivery listed on the Court's ECF noticing system or by regular first class mail to the parties listed below.

/s/ Jennine Hovell-Cox
Jennine Hovell-Cox, *Of Counsel*

Cory Justin Wright
3102 Vine Street
Abilene, Texas 79602
Debtor

Pamela Jean Chaney
Monte J. White & Associates, P.C.
402 Cypress, Suite 310
Abilene, Texas 79601
Debtor's Counsel

Walter O'Cheskey
6308 Iola Avenue
Lubbock, Texas 79424
Chapter 13 Trustee

U.S. Trustee
1100 Commerce Street, Room 976
Dallas, TX 75242